

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the Application of The)	
Detroit Edison Company for authority to)	
reconcile its Renewable Energy Plan costs)	Case No. U-16357
associated with the Plan approved in)	
<u>Case No. U-15806-RPS</u>)	

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on June 1, 2012.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 4300 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before June 15, 2012, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before June 25, 2012.

The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN ADMINISTRATIVE HEARING
SYSTEM
For the Michigan Public Service Commission

Mark D. Eyster
Administrative Law Judge

June 1, 2012
Lansing, Michigan

STATE OF MICHIGAN
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FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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PROPOSAL FOR DECISION

HISTORY OF PROCEEDINGS

In accordance with the Michigan Clean, Renewable, and Efficient Energy Act¹ (Act 295), on August 31, 2011, The Detroit Edison Company (Detroit Edison) filed an application requesting authority to reconcile its Renewable Energy Plan (REP) costs and for other related relief. A prehearing conference was held on September 30, 2011, before Administrative Law Judge Mark D. Eyster. At the prehearing conference, the Michigan Public Service Commission staff (Staff) appeared as a party to the proceedings and the Michigan Environmental Council (MEC) was granted intervenor status.

On February 28, 2012, an evidentiary hearing was conducted, at which, the testimony and exhibits of Detroit Edison's five witnesses, Staff's two witnesses, and the MEC's one witness were bound into the record and admitted into evidence. The parties waived cross-examination. The record is found in the 182 page transcript and 44 exhibits.

¹ 2008 PA 295, MCL 460.1001 *et seq.*

On March 26, 2012, briefs were filed by the parties. Detroit Edison filed a reply brief on April 16, 2012.

POSITIONS OF THE PARTIES

Introduction

Detroit Edison requests a Commission finding that its 2010 Renewable Cost Reconciliation and its Act 295 revenues and expenses, through 2010, are reasonable and prudent and meet all relevant requirements under Act 295. In addition, Detroit Edison requests that the Commission issue an order that: finds Detroit Edison is in compliance with the Renewable Energy Standards; finds that the retail rate impacts under its Renewable Cost Reconciliation Revenue Recovery Mechanism (Surcharge) do not exceed the maximum retail rate impacts; finds that the Surcharge is projected to maintain a \$50,000,000 minimum balance of accumulated reserve; maintains Detroit Edison's existing Surcharge levels; maintains the existing prices per MWh and Transfer Prices for renewable energy capacity and advanced cleaner energy capacity through 2011; approves new Transfer Prices for Act 295 renewable energy contracts and Company-owned renewable energy systems, starting in 2012; approves Detroit Edison's application and treatment of the average Transfer Price of \$56.91 during 2010; does not adjust Detroit Edison's minimum balance of accumulated reserve funds, and; approves Detroit Edison's proposed treatment of interest on any monthly regulatory liability balance. Detroit Edison also seeks accounting and regulatory authority and approvals for its 2010 Net Rate Base, 2010 Gross

Revenue Requirement, 2010 Incremental Cost of Compliance (ICC), Renewable Energy Credit (REC) and Advanced Cleaner Energy Credits (ACEC) inventory balances, proposed short-term borrowing rate used to calculate carrying charges on regulatory liability balances, and proposed long-term borrowing rate and methodology used to determine the rate of return on plant. Finally, Detroit Edison requests approval of its proposal to transfer RECs from its GreenCurrents and Energy Optimization (EO) programs and its proposed treatment of RECs provided to wholesale municipal and cooperative electric utility customers.

Staff finds that Detroit Edison's reconciliation costs are reasonable and prudent and supports approval of Detroit Edison's reconciliation. Staff supports Detroit Edison's request to transfer the GreenCurrents and EO RECs and to use currently approved Transfer Prices through 2011. Staff does not support Detroit Edison's request to use revised Transfer Prices, starting in 2012. Staff agrees that Detroit Edison's RE cost reconciliation revenue recovery mechanism does not exceed the retail rate impacts allowable under Act 295. Staff does not recommend any changes to Detroit Edison's Surcharge and the approved \$50,000,000 minimum balance of accumulated reserve. Additionally, Staff supports Detroit Edison's recommended rates to calculate carrying charges on regulatory liabilities and rate of return on plant. Consistent with the Commission's decision in Case No. U-16582, Staff supports Detroit Edison's removal of pre-Act 295 RE expenditures from recovery. Staff Init Br, p 8-9.

MEC contests three matters. MEC believes the Commission should adjust Detroit Edison's Surcharge and its minimum balance of accumulated reserves.

In addition, like Staff, MEC opposes Detroit Edison's proposal to modify its Transfer Prices.

Surcharges and Minimum Reserve Balance

MEC considers Detroit Edison's request to maintain its current Surcharge and the \$50,000,000 minimum reserve balance to be "not reasonable, prudent, necessary, or appropriate". MEC Init Br, p 2. MEC argues that, since the Commission originally approved the current minimum reserve balance and the Surcharge, "both the overall revenue requirement and the [ICC] have decreased substantially" and "in just two years, [Detroit Edison] has accumulated a balance of reserve funds that is over \$30 million more than it originally projected to accumulate." MEC Init Br, p 3. MEC recommends that the Commission order "adjustments to provide relief to customers under a program that is flush with pre-collected cash and projected to cost a lot less than originally thought." MEC Init Br, p 3. As MEC sees it, at MEC Init Br, p 6:

Almost three years down the road, costs for renewable energy are lower than projected across the board. Consumers Energy has responded by . . . reducing surcharges for all . . . customer classes Detroit Edison's customers, on the other hand, have yet to receive any surcharge relief. It is reasonable, prudent, and appropriate for the Commission to begin reducing Detroit Edison's surcharges.

MEC notes that, when the Commission approved Detroit Edison's Surcharge at the statutory maximum, it did so based on a projected total revenue requirement of \$7,681,000,000 and that the total revenue requirement is now projected to be \$6,430,200,000; a reduction of \$1,251,600,000. MEC Init Br, p 7-8. MEC adds that, in 2010, Detroit Edison received Surcharge revenue of

approximately \$102,100,000 and incurred an ICC of approximately \$8,400,000. MEC Init Br, p 8. MEC notes that, in its original REP, Detroit Edison proposed a minimum reserve balance of \$100,000,000, Staff recommended \$22,500,000, and the Commission approved \$50,000,000. MEC Init Br, p 8. MEC notes that Detroit Edison originally projected a reserve balance of \$95,034,600, at the end of 2010, but instead has accumulated \$125,444,700. MEC then argues, at MEC Init Br, p 9, that:

Detroit Edison's request appears to be based on the premise that it is somehow entitled to . . . collect the maximum surcharge regardless of the realities of its actual and projected costs or the funds that it has already accumulated. . . .

In short, the company has collected more than the Commission-approved minimum balance; more than the company's requested minimum balance; and - most significantly - about a third more than it projected it would accumulate. The excess of this over-collection is even more conspicuous when one considers that the projected cost of Detroit Edison's REP is down \$1.25 billion from when the surcharges and minimum accumulated reserve balance were originally set. In light of the changed circumstances since the surcharges and minimum balance were originally set, it is reasonable and appropriate to begin reducing them at this time.

MEC continues by arguing that the costs of Detroit Edison's REP will continue to drop. MEC argues that, based on the Commission's December 20, 2011, Order in Case No. U-16582 (December Order), the Commission is likely to lower the depreciation rate for Detroit Edison owned wind projects. MEC Init Br, p 10-11. In addition, MEC notes that, in the December Order, the Commission reduced, from \$4,000,000 to \$1,000,000, the amount for renewable energy research and did not approve \$3,000,000 in pre-Act costs. MEC Init Br, p 11. MEC adds that lower than projected REC contract costs have reduced the ICC by at least \$18,000,000. MEC Init Br, p 12. MEC also points out that Detroit

Edison's projected ICC was based upon its proposed lower transfer prices that were rejected by the Commission in the December Order. MEC Init Br, p 12-13. Finally, for additional support, MEC cites the December Order, p 24, where the Commission states:

REP costs for all utilities appear to be substantially less than initially estimated. As Detroit Edison continues to gain experience in implementing its REP, the Commission finds it possible, if not likely, that the company's REP surcharges will be reduced in the future.

Detroit Edison responds by stating, "[a]nyone can see that Act 295 compliance is no sure thing based on collection of the maximum surcharge levels." Detroit Edison Rep Br, p 8. Detroit Edison continues by arguing that the MEC apparently assumes that the Commission has already decided to reduce wind depreciation rates to below 4.24% and notes that, in Case No. U-16991, it has requested depreciation rates of 4.47% for wind generation and 5.30% for solar generation. Detroit Edison states the MEC's \$18,000,000 ICC savings has already been accounted for in its calculation of the total revenue requirement. Detroit Edison Rep Br, p 9. At Detroit Edison Rep Br, p 11 (citation omitted), Detroit Edison adds:

The remainder of MEC's argument consists of a variety of calculations, all of which presuppose MEC's rosy assumptions about the future continue unabated for the next 17 years. Those calculations in no way undercut the reality that addressing the \$6.4 *billion* Act 295 Renewable Energy Capacity Portfolio Standards and Renewable Energy Credit Portfolio Standards will be a challenge for Detroit Edison and it would be unreasonable and imprudent to reduce the Renewable Energy Surcharge and Minimum Regulatory Liability Balance this early in the process of implementing the Company's multi-billion dollar plan to address Act 295's targets.

In response to MEC's comparisons between Detroit Edison's and Consumers Energy's REPs and Surcharges, Detroit Edison argues that these comparisons are not valid because Detroit Edison's 2013 and 2015 Renewable Energy Capacity Portfolio Standards are each 100 MW higher than Consumers Energy's. Detroit Edison Rep Br, p 10. In addition, Detroit Edison points to its 2015 plans for 350 more MW of renewable energy capacity than Consumers Energy. Detroit Edison Rep Br, p 10.

Staff notes that the Surcharge was approved as part of Detroit Edison's REP and does "not recommend changes . . . at this time." Staff Init Br, p11.

Transfer Price

Both Staff and MEC oppose Detroit Edison's proposal to change its Transfer Prices.

MEC argues, at MEC Init Br, p 22-23, that:

The Commission denied the request last December in the biennial review, ordered a technical conference to be held, and authorized Detroit Edison to file an REP amendment case after conclusion of the technical conference if the company still wished to amend its projected transfer prices. Detroit Edison sought rehearing of this decision, which the Commission denied on March 8, 2012.

There is no reason to reverse course on this issue now. The Commission has decided it, reaffirmed its decision, and laid out a reasonable path forward if Detroit Edison wishes to pursue it.

In response, Detroit Edison argues that reliance upon the Commission's orders in Case No. U-16582 is "not a sufficient reason to now continue to rely on Transfer Prices that were forecast prior [to] the financial and economic crisis of 2008. Detroit Edison Rep Br, p 4.

MEC continues by noting that, in 2010, residential customers accounted for about 36% of Detroit Edison's sales and contributed about 69% of the Surcharge revenue. MEC Init Br, p 25. MEC argues that allowing Detroit Edison to lower the transfer price "props up the incremental cost of compliance . . . , denying the already-disproportionately-burdened residential customers of an obvious opportunity for surcharge relief." MEC Init Br, p 25.

Detroit Edison characterizes this position as an argument "with Act 295 itself"; noting that Act 295 requires non-volumetric surcharges. Detroit Edison Rep Br, p 4-5.

Finally, MEC raises concerns that, once transfer prices are lowered, statutory provisions may not exist to raise them absent action to do so by Detroit Edison. MEC Init Br, p 26.

Detroit Edison characterizes this as nothing more than an argument "that stale Transfer Prices are preferable because Act 295 is unclear with respect to when Transfer Prices might be revised again." Detroit Edison Rep Br, p 5.

Staff opposes the proposal "because the same transfer price schedule . . . was not approved by the Commission in its [December Order] and the Company did not provide any new evidence in this case to support its request." Staff Init Br, p 6.

Detroit Edison argues that Staff has made an "incorrect conclusion that no new evidence was provided" and that it has provided "new evidence [that] amply demonstrates . . . there is no material dispute concerning the proper range of Transfer Prices". Detroit Edison Rep Br, p 4.

FINDINGS OF FACT

Introduction

Detroit Edison presented five witnesses: Mr. Ajay Gupta, Finance Manager/Controller of Marketing and Customer Service with DTE Energy Corporate Services LLC; Ms. Angela P. Wojtowicz, Manager of Detroit Edison's Wholesale Power Group; Mr. Martin L. Heiser, a Consultant with DTE Energy Services, LLC; Mr. Nicholas A. Griffin, Detroit Edison's Principal Market Engineer for Renewable Energy, and; Charles L. Conlen, Detroit Edison's Director of Renewable Energy Business Development.

Mr. Gupta provided direct testimony to explain Detroit Edison's 2010 REP incremental balances and expenses. He also addressed reconciliation of Detroit Edison's 2010 Surcharge revenue. In rebuttal, he testified about issues related to deferred taxes. He sponsored exhibits A-1 through A-3.

Ms. Wojtowicz testified to explain Detroit Edison's proposed Transfer Prices. She sponsored exhibit A-4. She, also, testified in rebuttal.

Mr. Heiser presented direct testimony to explain the difference between Detroit Edison's calculation of its actual 2010 ICC and the REP's projected ICC. He also testified about Detroit Edison's calculation of its pre-tax capital cost. Additionally, Mr. Heiser provided rebuttal testimony and sponsored exhibits A-7 through A-12.

Mr. Griffin's testimony addressed expenses to be recovered under Detroit Edison's PSCR mechanism and addressed Detroit Edison's RECs, ACECs, and associated booked expenses. He sponsored exhibits A-5 through A-6.

Mr. Conlen provided an overview of Detroit Edison's 2010 renewable energy activities and its progress toward meeting the REC and capacity standards. Additionally, he addressed Detroit Edison's proposed Surcharge.

Staff presented two witnesses: Ms. Julie K. Baldwin, Manager of the MPSC's Renewable Energy Section of the Electric Reliability Division, and Ms. Katie Trachsel, Staff Auditor in the Renewable Energy Section.

Ms. Baldwin adopted the testimony of Ms. Catherine E. Cole, former Staff Engineer in the Renewable Energy Section. By doing so, she provided testimony addressing Detroit Edison's requests to transfer RECs from the GreenCurrents program, for approval of its EO credit substitution proposal, and for approval of new Transfer Prices to be effective starting in 2012.

Ms. Trachsel provided testimony to present Staff's recommendations regarding Detroit Edison's REP reconciliation. She sponsored exhibit S-1.

MEC presented one witness; George E. Sansoucy, owner of George E. Sansoucy, P. E., LLC. Mr. Sansoucy provided testimony addressing Detroit Edison's continued use of the maximum allowable Surcharge and its proposed future Transfer Prices. Mr. Sansoucy sponsored exhibits MEC-1 through MEC-9. In addition, MEC exhibits MEC-10 through MEC-22 were admitted into evidence.

No witness was subject to cross-examination.

The parties do not appear to have disputes regarding the factual material presented by Detroit Edison. Rather, the disputes that exist are limited to Detroit Edison's proposal to maintain the current level of its Surcharges and its proposal for new Transfer Prices, starting in 2012. Because no material factual disputes exist, a summary of the findings is provided.

Summary of Factual Findings

In its REP², Detroit Edison projected it would obtain or generate 1,100,729 RECs in 2010. 2 Tr 118. In 2010, Detroit Edison actually booked 1,253,139 RECs and 118,215 Michigan Incentive RECs (IRECs). 2 Tr 104. The REP forecast Detroit Edison obtaining or generating 125,000 ACECs in 2010 and 117,159 ACECs were actually booked. 2 Tr 118-19. The REP forecast a 40 MW renewable energy capacity portfolio by the end of 2010 and the actual portfolio totaled approximately 39 MW. 2 Tr 121.

Exhibit A-8 2nd Revised shows that Detroit Edison's 2010 average net rate base and gross revenue requirements were \$51,028,400 and \$13,439,700, respectively; both less than half of what had been projected in the REP.

In 2010, Detroit Edison spent approximately \$3,400,000 purchasing RECs through the customer owned portion of the SolarCurrents pilot program. 2 Tr 99. An additional \$9,300,000 was expended for the company owned portion of the pilot program. 2 Tr 126.

² The REP in effect during 2010 was originally approved by the Commission on June 2, 2009, in Case No. U-15806. The Commission approved an amended REP on December 20, 2011, in Case No. U-16582.

Detroit Edison is requesting Commission approval to transfer approximately 2,000 expired 2009 vintage RECs from the GreenCurrents program into the REP. 2 Tr 127. If the transfer is granted, the GreenCurrents program would be credited a price per transferred REC equivalent to the lowest priced Commission approved unbundled REC contract of the same vintage. 2 Tr 127. The Commission approved this transfer in the December Order.

Detroit Edison plans to substitute 141,769 EO credits for RECs at zero cost³. 2 Tr 127-28, 151. Staff confirmed that these EO credits are available as substitutes for RECs. 2 Tr 151.

Exhibit A-8 2nd Revised shows a 2010 REC and ACEC inventory balance of \$7,612,000. At the end of 2010, the average REC cost in Detroit Edison's inventory was \$7.68; \$2.46 less than planned. 2 Tr 106.

Exhibit A-6, line 9, is titled "PURPA RECs (less non-jurisdictional)". Detroit Edison's witness, Mr. Griffin, explains that "non-jurisdictional refers to the RECs [Detroit Edison] provided to several municipally-owned utilities and/or cooperative electric utilities." 2 Tr 95. He goes on to explain, at 2 Tr 95-96, that:

The Wholesale Customer RECs were determined by dividing the amount of firm wholesale sales made by the Company in 2010 that were not under the MPSC's jurisdiction by the total sales made by the Company in 2010. The resultant percent was then multiplied by the RECs the Company acquired in 2010 from its Renewable Energy Systems that were in existence at the time 2008 PA 295 went into effect, otherwise known as "base" RECs. If the Commission agrees with the Company's request, these RECs will be subtracted from the Company's REC inventory and will be

³ It appears that a similar request was approved in the December Order. It is not clear if this request covers entirely new EO credits or if it contains those for which substitution was previously approved.

transferred to the applicable wholesale customers consistent with the Company's Commission approved 2008 PA 295 Renewable Energy Plan. As also requested in the Company's Amended Renewable Energy Plan filed in Case No. U-16582, The Company is requesting that the Commission reduce the number of renewable energy credits required under the renewable energy credit standard for the Company by the number of renewable energy credits to be transferred to the electric providers purchasing the wholesale electricity under MCL 460.1035(2).

Detroit Edison does not detail the municipal and cooperative utilities to which this proposal applies nor the quantity of RECs involved. Additionally, it does not appear that this information was provided as part of the, above referenced, request by Detroit Edison in Case No U-16582. See Case No. U-16582, 2 Tr 275-77, Exh A-9.

Detroit Edison's REP forecast a \$900,000 operating and maintenance (O&M) expense for REP implementation, in 2010. 2 Tr 123. Instead, 2010 O&M totaled \$2,200,000. 2 Tr 124. The ICC was forecast at \$11,000,000. 2 Tr 125. The actual ICC was approximately \$8,361,500. 2 Tr 65. Exh A-7.

Exhibit A-10 provides calculations for Detroit Edison's pre-tax rate of return.

For 2010, Detroit Edison had a reserve fund balance of \$93,779,000 and ended with a cumulative reserve fund balance of \$125,444,700. 2 Tr 78. In the REP, both were projected to be \$95,034,600. Exh A-9 Revised. The larger than expected balances were caused, in part, by a "shift in timing and sizes of renewable energy system developments". 2 Tr 133-34. In Case No U-15806, the Commission approved a minimum reserve fund balance of \$50,000,000.

2 Tr 170-71. The monthly short-term borrowing rates, used to calculate carrying charges on regulatory balances, is shown in exhibit A-9 Revised.

The average transfer price for 83,583 MWh of RE purchased by Detroit Edison was \$56.91 per MWh. 2 Tr 92. The total RE expense that was transferred to the PSCR was approximately \$4,760,000. 2 Tr 92.

Detroit Edison's 2010 booked REP expense for RE contract RECs was \$4,300,000 for 83,583 RECs from the Stoney Corners Wind Farm I and the L'Anse Warden biomass facility. 2 tr 99.

The REC standards do not take effect until 2012. No party contests, and it is accepted, that Detroit Edison's "actions and performance have been consistent with the [REP] to address the Renewable Energy Credit Standards of 2008 PA 295." 2 Tr 114. The Renewable Energy Capacity Standards do not take effect until 2013. Again, no party contests, and it is accepted, that Detroit Edison is "on target with respect to attainment of the Renewable Energy Capacity Standards." 2 Tr 114.

In Detroit Edison's initial REP, the total revenue requirement was projected to equal \$7,681,000,000. 2 Tr 169. In its, now, current REP, the projected revenue requirement is \$6,430,200,000. 2 Tr 169.

Detroit Edison proposes continuation of its current Surcharges. 2 Tr 116. The current Surcharges are \$3 per meter, for residential customers; \$16.58 per meter, for commercial secondary customers, and; \$187.50 per meter, for commercial primary and industrial customers. 2 Tr 170. In Detroit Edison's REP,

the Surcharge was projected to generate \$106,082,726 in 2010. Exh A-3. It actually generated \$102,140,534; \$3,942,192 less than anticipated. Exh A-3.

Detroit Edison has proposed the use of new Transfer Prices after 2011. At 2 Tr 45-46, Detroit Edison's witness, Ms. Wojtowicz stated Detroit Edison's position regarding calculation of the new Transfer Prices, by stating:

The methodology most likely to facilitate a successful implementation of 2008 PA 295 is to establish:

(1) The energy value component of the Transfer Price be fixed for projects approved during the relevant time period and based on the forecasted Midwest Independent Transmission System Operator's (MISO) locational marginal price (LMP), and

(2) The capacity value component of the Transfer Price be fixed for projects approved during the relevant time period and based on the forecasted capacity value of a new dispatchable generation facility taking into account the shorter term capacity market, with

(3) The total Transfer Price fixed for projects approved during the relevant time period and expensed and recovered through the PSCR process with the Renewable Energy or Advanced Cleaner Energy generated and/or purchased by Detroit Edison being the lesser of the Transfer Price or third party renewable energy and/or advanced cleaner energy contract cost, where

(4) The Transfer Price for 2008 PA 295 Detroit Edison Renewable Energy Contracts and Detroit Edison-owned Renewable Energy Systems that the Commission approves in a particular year will be the Transfer Prices most recently approved and will be established as a floor for the lifecycle of the contract or project.

To this end, Detroit Edison projected the energy price components of its Transfer Price by purchasing "a recent energy price forecast . . . from HIS CERA for the MISO LMP at the Cinergy Hub" and adding a basis adder to forecast LMPs at the Michigan Hub. 2 Tr 48. To estimate the capacity price components for 2016 and beyond, Detroit Edison purchased "a recent capacity price forecast . . . from IHS CERA". 2 Tr 49. For its 2012 through 2015 projections, Detroit

Edison used “a summary of actual energy deals as conveyed to brokers from industry market participants.” 2 Tr 49. For each technology, the total projected Transfer Price is the sum of the forecasted annual average LMP and the forecasted capacity factor adjusted capacity price⁴ for the relevant renewable generation technology. 2 Tr 52.

Under its proposal, Detroit Edison would use a single annual Transfer Price for each renewable generation technology. 2 Tr 53. The use of the new Transfer Prices would begin in 2012 and are presented in Exhibit A-4, page 2 of 2. The new Transfer Prices are the same as those proposed by Detroit Edison and rejected by the Commission in Case No. U-16582. 2 Tr 153, 177.

DISCUSSION

Statutory Provisions

MCL 460.1049 reads, in part:

(1) . . . The renewable cost reconciliation proceeding shall be conducted as a contested case pursuant to the administrative procedures act of 1969

(2) At the renewable cost reconciliation, an electric provider may propose any necessary modifications of the revenue recovery mechanism to ensure the electric provider's recovery of its incremental cost of compliance with the renewable energy standards.

(3) The commission shall reconcile the pertinent revenues recorded and the allowance for the nonvolumetric revenue recovery mechanism with the amounts actually expensed and projected according to the electric provider's plan for compliance. The

⁴ At 2 Tr 49-50, Ms. Wojtowicz explains that:

The capacity factor adjusted capacity price for each renewable generation technology was derived by adjusting for the technology specific average annual capacity factors and peak period capacity factors. . . . These adjustments are made by dividing the hourly capacity prices by the annual average capacity factor then multiplying by the peak period capacity factor resulting in the capacity factor adjusted capacity price.

commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged in the relevant reconciliation period. In its order, the commission shall do all of the following:

(a) Make a determination of an electric provider's compliance with the renewable energy standards, subject to section 31.

(b) Adjust the revenue recovery mechanism for the incremental costs of compliance. The commission shall ensure that the retail rate impacts under this renewable cost reconciliation revenue recovery mechanism do not exceed the maximum retail rate impacts specified under section 45. The commission shall ensure that the recovery mechanism is projected to maintain a minimum balance of accumulated reserve so that a regulatory asset does not accrue.

(c) Establish the price per megawatt hour for renewable energy and advanced cleaner energy capacity and for renewable energy and advanced cleaner energy to be recovered through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, as outlined in section 47(2)(b)(iv).

(d) Adjust, if needed, the minimum balance of accumulated reserve funds established under section 21.

Uncontested Matters

With regard to the statutorily mandated matters to be addressed in this order, Detroit Edison has presented evidence to support the following findings:

1. Detroit Edison is in compliance with the renewable energy standards⁵;
2. The retail rate impacts do not exceed the maximum retail rate impacts, and;
3. The Surcharge is projected to maintain a minimum balance of accumulated reserve so that a regulatory asset does not accrue.

The parties do not contest these issues and, for the purpose of this hearing, these conclusions are adopted.

⁵ Renewable energy standards to not apply until 2012.

As noted above, Detroit Edison asks for accounting and regulatory authority and approvals for its 2010 Net Rate Base, 2010 Gross Revenue Requirement, 2010 ICC, REC and ACEC Inventory balances, proposed short-term borrowing rate used to calculate carrying charges on regulatory liability balances, proposed long-term borrowing rate and methodology used to determine the rate of return on plant, and transfer of RECs from Detroit Edison's GreenCurrents and EO programs to address the Act 295 renewable standard. None of the parties appear to have any concerns regarding these requests. To the extent required and not already approved by prior Commission order, these requests and proposals are approved.

In addition, Detroit Edison requests approval of its proposal with respect to RECs provided to wholesale municipal and cooperative electric utility customers. No party has raised issues with this proposal. However, the evidentiary record appears devoid of details regarding the municipal and cooperative utilities involved and the quantity of RECs that would be transferred under the proposal. While this matter may not be of serious issue, Detroit Edison has failed to present sufficient evidence for a knowing decision to be made and, for this reason, the request is denied. Detroit Edison should provide additional details regarding this issue in a future filing.

Contested Matters

The parties contest three matters; the related Surcharge and minimum reserve balance and Detroit Edison's proposed Transfer Prices. These matters were addressed in the Commission's December Order.

Surcharge Adjustment

In the December Order, at p 23-24, the Commission found that:

[T]he surcharges . . . should remain the same. . . . [I]t appears that Detroit Edison may have difficulty in achieving its renewable energy target even with the implementation of maximum surcharges. The Commission notes however, that REP costs for all utilities appear to be substantially less than initially estimated. As Detroit Edison continues to gain experience in implementing its REP, the Commission finds it possible, if not likely, that the company's REP surcharges will be reduced in the future.

As presented in this case, there appears to be no significant factual changes that would warrant modification of the findings and rulings from the December Order. None-the-less, in his testimony as MEC's witness, Mr. Sansoucy recommends that Detroit Edison's Surcharges be lowered. At 2 Tr 174, he states:

The basis for my recommendation is the regulatory liability balance that has built up to a much higher level than projected; the lack of necessity for such a large balance given the now-significantly-lower projected revenue requirements for the REP; and the added impact to ratepayers of an even larger deferred tax asset than would have been created if surcharge revenues were scaled more proportionally to the incremental cost of compliance.

While the burden is not on MEC to establish that the Surcharge needs adjusting, an examination of Mr. Sansoucy's concerns does not reveal reason to reverse the findings in the December Order. Mr. Sansoucy raises the fact that the regulatory liability balance has increased at a much higher rate than originally projected. However, in Case No. U-16582, the Commission considered updated regulatory liability balance projections that were only marginally lower than the actual balance calculated in this case. See Exh A-9 Revised. See Case No.

U-16582, Exh A-2. Next, Mr. Sansoucy raises the lower projected REP revenue requirements. This, too, was considered by the Commission in Case No. U-16582, when the Commission considered the exact same projections as those presented in this case. See 2 Tr 169. See Case No. U-16582, 2 Tr 290, Exh MEC-1. The final basis for Mr. Sansoucy's opinion, a larger deferred tax asset, is presented in detail at 2 Tr 174-76.⁶ In part, his argument is premised upon the notion that current customers are paying for a \$48 million deferred tax asset that will accrue benefits to future customers. However, at 2 Tr 35-36, Detroit Edison's witness Mr. Gupta testified convincingly to rebut Mr. Sansoucy's analysis. As Mr. Gupta states, the "tax asset represents taxes that have been paid by Detroit Edison, but have not yet been recovered from customers." 2 Tr 36. Thus, the three issues upon which MEC's witness bases his recommendation for a lower surcharge have either already been considered by the Commission, just a few months ago, or are factually incorrect.

As noted above, in its December Order, the Commission determined that the current Surcharge should be maintained. Because there has been little passage of time and there appears to be no significant change in circumstance, the current Surcharges are appropriately continued. Of course, as already noted, as "Detroit Edison continues to gain experience in implementing its REP, the Commission finds it possible, if not likely, that the company's REP surcharges will be reduced". December Order, p 24.

⁶ It appears that MEC has abandoned this argument as no mention of it appears in its briefs.

Minimum Reserve Balance

Because of the decision regarding the Surcharge, lowering the minimum reserve balance becomes meaningless as the current balance is well in excess of the Commission approved minimum. Again, as with the Surcharge, as greater experience is gained in implementing Detroit Edison's REP, there is a likelihood that this may be adjusted.

Transfer Price

In the December Order, the Commission stated, at p 16-17:

[I]n order to bring essential transparency to the process of determining transfer prices, the Commission directs the Staff to convene a technical conference within 30 days of the date of this order. The Staff and providers that are developing transfer price schedules, and other interested parties shall participate in the conference. The conference shall address the appropriate inputs and method for developing transfer prices and adequate measures to protect confidential information that recognize the rights of the other parties to examine and test the evidence that may be used to develop transfer prices. The technical conference shall conclude within 90 days of the date of this order, at which time Detroit Edison may amend its plan.

The Commission clarified "that after the technical conference is completed, if Detroit Edison wishes to amend its transfer price schedule, the company may file an amended REP."⁷ U-16582, Order Denying Rehearing, p 2 (March 8, 2012).

In the light of these previous orders, Detroit Edison's request to amend its Transfer Prices is denied. Notice is taken that, pursuant to Commission order, the parties to this case and the Michigan Attorney General participated in the technical conference. Information was exchanged and meetings were held on

⁷ In a footnote, the Commission added that Detroit Edison "may also request approval of a new transfer price schedule in an REP reconciliation case".

January 18 and February 21. No consensus on the issues was achieved and the parties filed comments on March 19 & 20, 2012. Pursuant to the Commission's orders, after completion of the technical conference, Detroit Edison may request a change in its Transfer Prices by filing an amended REP or by making request in a REP reconciliation case. However, because of the timing of the cases, the results of the technical conference are not available for consideration in this reconciliation case. Therefore, in accord with the process adopted in Case No. U-16582, if Detroit Edison wishes to amend its Transfer Prices, it may do so by filing an application to amend its REP or by waiting until its next reconciliation case or biennial review.

CONCLUSION

For the reasons stated above, it is found that:

- 1) Detroit Edison is in compliance with the renewable energy standards;
- 2) Detroit Edison may maintain its Surcharges at their current levels;
- 3) the maximum retail rate impacts have not been exceeded;
- 4) the Surcharge is projected to avoid accrual of a regulatory asset;
- 5) Detroit Edison's Transfer Prices shall be maintained at their currently approved levels, and;
- 6) no adjustments to Detroit Edison's minimum balance of accumulated reserve funds are required.

Furthermore, to the degree necessary and to the extent that approval has not been previously granted, Detroit Edison's requests related to its 2010 Net

Rate Base, 2010 Gross Revenue Requirement, 2010 ICC, REC and ACEC Inventory balances, proposed short-term borrowing rate, proposed long-term borrowing rate, and its proposed transfer of RECs from the GreenCurrents and EO programs are GRANTED.

As explained, above, Detroit Edison's request regarding the accounting of RECs for its wholesale municipal and cooperative electric utility customers is DENIED.

Any evidence and arguments not specifically addressed in this Proposal for Decision are deemed irrelevant to the findings and conclusions of this matter.

MICHIGAN ADMINISTRATIVE HEARING
SYSTEM
For the Michigan Public Service Commission

Mark D. Eyster
Administrative Law Judge

ISSUED AND SERVED: June 1, 2012
drr